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The Balance, AND COLUMBIAN REPOSITORY.

" HAIL SACRED POLITY, BY FREEDOM REAR'D !
" HAIL SACRED FREEDOM, WHEN BY LAW RESTRAIN'D !"
BEATTIE.

HUDSON, (New-York) TUESDAY, March 8, 1803.

Political.

FOR THE BALANCE.

ON THE IMPOLICY OF A SPEEDY ADMISSION OF ALIENS TO A PARTICIPATION OF THE RIGHTS OF SUFFRAGE.

No. I.

THIS country is a vaſt reſervoir, into which are continually pouring ſuch polluted ſtreams as powerfully tend to corrupt and poiſon the whole maſs. The flood-gates of emigration are ſet open.—Europe, for the laſt ten years, has been in a ſtate of general and violent fermentation; and the froth and lees which that fermentation had produced, are thrown out upon us. The jails and dungeons of foreign countries are diſcharging their filthy contents into our land, which ſeems doomed to become a Botany Bay; and, *ſcape-goat* like, muſt be loaded with maledictions and muſt bear, tho' not the iniquities, (what is nearly as intolerable) the culprits of Europe.

Moſt readily is it granted that many of the emigrants to this country are peaceable, induſtrious, uſeful people: they quietly betake themſelves to their reſpective callings, and are a valuable acquiſition to the nation that adopts them.——It is from the ſwarm of idle, reſtleſs, turbulent and factious characters, who neſtle together in our largeſt towns and cities, that the peace of the country is wounded and its liberties jeopardiſed. Theſe outcaſts from European ſocieties, theſe ſcapelings from the gallows are not contented to find here a ſecure aſſylum, an inviolable protection of their perſons, a goodly land, which offers them food and raiment. It is not enough that they enjoy the rights of hoſpitality: " that they are permitted to land quietly on our ſhores; that they will be protected equally with our own citizens, in their perſons, and in the acquiſition and enjoyment of property; that our courts of juſtice are open to them to ſeek redreſs of injuries; and that they are permitted peaceably to return to their own countries, whenever they pleaſe, and to carry with them all their effects."—They deſpiſe and loath this precious Manna, that is inceſſantly diſtilling upon them, and falling in celeſtial ſhowers around their tents; and of which they are admitted to the gratuitous enjoyment.—No immunity, no privilege, ſhort of the right of ſuffrage which is a participation in the national ſovereignty, can ſatisfy theſe haughty and troubleſome ſtrangers. No ſooner are they landed on our ſhores, than they aſſert their claims in a haughty tone, and in the language of menace and invective. They convulſe our ſea-ports;—they arreſt the progreſs of buſineſs in Congreſs, by obtruding themſelves, from time to time, as the all-important object of legiſlative attention.—While as ignorant almoſt of the natu e of our republican government, as if they had come from another planet,* they inſtantly on their arrival aſſume the province of political teachers and dictators: and even in their addreſſes to government, they have the audacity to reproach our laws and to pour the cup of ſcorn and inſult upon men, who had borne " the heat and burthen of the day," during our perilous revolution.

Never perhaps before was the government of an independant and great nation ſo inſulted by vagabond ſtrangers, who were ſubſiſting on its bounty. If theſe aliens had come over in an embodied army fifty thouſand ſtrong, and with a deſcendant of William the Conquerer, or with a brother or couſin of Bonaparte at their head, they might, with a pretty good grace, have declaimed againſt the oppreſſion and tyranny of our laws, and demanded a new order of things,—not as a favour, but as their *right*. In ſuch a commanding attitude, they might have pleaded their right to a ſhare or even to a monopoly of the national ſovereignty, in language of ſcorn, invective and reproach. But (unleſs convinced of their duty by the all-powerful logic of a conquerer) *the ſovereign people* of this country are not yet quite prepared to endure, from vagrant hordes, buffettings and ſpurnings in return for hoſpitality; nor have they, in the " march of ſentiment," attained to ſuch an unbounded regard for " oppreſſed humanity," as to be willing that foreign convicts and gallows-ſcapers ſhould ſcornfully tread upon their own necks.

ONE OF THE PEOPLE.

* No circumstance could afford a clearer demonstration either of the ignorance or extreme absurdity of our new political lecturers, respecting the nature of government, than the following sentiments in their late memorial to Congress: namely, " that to tax him, (an emigrant,) imprison him, or put him to death, by laws, in the framing of which he was not represented, is to exercise against him *an act of tyranny.*"

According to this principle, if an emigrant or an alien, the day that he lands on our shores, should steal, rob, or murder, it would be *an act of tyranny* to punish him; because, forsooth, " he was not represented in the framing of our laws."

MEMORIAL OF THE CIRCUIT JUDGES.

To the Honourable the Senate and House of Representatives of the United States in Congress assembled,

THE UNDERSIGNED

Most Respectfully submit the following Representation and

MEMORIAL.

BY an act of Congress passed on the thirteenth day of February, in the year of our Lord one thousand eight hundred and one, entitled, "*An act to provide for the more convenient organization of the courts of the United States,*" certain judicial offices were created, and courts established, called Circuit Courts of the *United States.*

In virtue of appointments made under the constitution of the *United States*, the undersigned became vested with the offices so created, and received commission authorizing them to hold the same, with the emoluments thereunto appertaining, during their good behaviour.

During the last session, an act of Congress passed, by which the above mentioned law was declared to be repealed; since which no law has been made for assigning to your memorialists, the execution of any judicial functions, nor has any provision been made for the payment of their stipulated compensations.

Under these circumstances, and finding it expressly declared in the constitution of the *United States*, that "*The Judges both of the Supreme and Inferior Courts shall hold their offices during good behaviour, and shall, at stated times, receive, for their services, a compensation which shall not be diminished during their continuance in office,*" the undersigned, after the most deliberate consideration, are compelled to represent it as their opinion, that the rights secured to them by the constitution, as members of the judicial department, have been impaired.

With this sincere conviction, and influenced by a sense of public duty, they most respectfully request of Congress to review the existing laws which respect the officers in question, and to define the duties to be performed by the undersigned, by such provisions as shall be consistent with the constitution, and the convenient administration of justice.

The right of the undersigned to their compensations, they sincerely believe to be secured by the constitution, notwithstanding any modification of the judicial department, which, in the opinion of Congress, public convenience may recommend. This right, however, involving a personal interest, will be cheerfully submitted to judicial examination and decision in such manner as the wisdom and impartiality of Congress may prescribe.

That judges should not be deprived of their offices or compensation without misbehaviour, appears to the undersigned to be among the first and best established principles in the American constitution; and in the various reforms they have undergone, it has been preserved and guarded with increased solicitude.

On this basis the constitution of the United States has laid the foundation of the judicial department, and expressed its meaning in terms equally plain and peremptory.

This being the deliberate and solemn opinion of the undersigned, the duty of their stations requires that they should declare it to the legislative body. They regret the necessity which compels them to make the representation, and they confide that it will be attributed to a conviction that they ought not voluntarily to surrender rights & authorities entrusted to their protection, not for their personal advantage, but for the benefit of the community.

Balance Closet.

LIBERTY OF THE PRESS.

No. III.

WITHOUT stopping to notice the factious underlings of opposition, who formerly clamored against the Sedition Law, in grog-shops, in tavern bar-rooms, at election-polls, and in the democratic newspapers, we advance directly to the *leaders* of the *patriot band*, who leagued themselves together to "save the republic." In the very foremost rank of this band, like an herald or a trumpeter, appears the Attorney-General. It can afford neither pleasure nor profit to wage *war* with this man. In order to gain a complete victory over him, it is only necessary to hold him up to public view—to exhibit him *as he is.* The people, if correctly informed, will never fail to judge correctly.

In December, 1798, the General Assembly of Virginia passed sundry inflammatory resolutions, in which the Alien and Sedition Laws were pointedly condemned—the Sedition Law in particular—"because (said the resolution) it is levelled against "the right of *freely examining public characters and* "*measures*, and of *free communication among the* "*people* thereon, which has ever been justly deemed the *most effectual guardian of every other right.*" These resolutions were sent to the legislatures of the several states for their concurrence. Those states generally, in which democratic principles preponderated, gave them their hearty approbation.

In January, 1800, the Virginia Assembly received and approved the report of the committee to whom was committed the proceedings of sundry states in answer to the above-mentioned resolutions. This report was printed and circulated; together with the instructions of the Assembly to the Senators in Congress from Virginia, concerning the Sedition Act, &c.—If the circulation of this pamphlet had been confined to the state of Virginia alone, it would not, perhaps, have claimed a moment's attention here; and there certainly could not, in that case, have been any propriety in declaring that our Attorney-General approved of and adopted the sentiments contained in it: But we have to inform the reader that Mr. Spencer was at part of the expence of having that pamphlet re-printed and circulated in this state.* It becomes our duty, therefore, to contrast its leading principles, with those by which Mr. Spencer *now* affects to be governed.

Of the freedom of the Press, the report speaks in the following manner:—

"The freedom of the press under the "common law, is, in the defences of the "Sedition act, made to consist in an *ex-* "*emption* from all *previous* restraint on "printed publications, by persons author- "ized to inspect and prohibit them. It "appears to the committee, that this idea "of the freedom of the press, can never "be admitted to be the American idea of "it: since a law inflicting penalties on "printed publications, would have a sim- "ilar effect with a law authorizing a pre- "vious restraint on them. It would seem "a mockery to say, that no law should "be passed, preventing publications from "being made, but that laws might be pas- "sed for punishing them in case they "should be made."

After shewing the essential difference between the British government, and the American constitutions, the report pointedly adds—

"The security of the freedom of the "press, requires that it should be exempt "not only from previous restraint by the "executive, as in Great-Britain; but "from legislative restraint also; and this "exemption, to be effectual, must be an "exemption, not only from the previ- "ous inspection of licencers, but from "the SUBSEQUENT PENALTY OF "LAWS."

"The state of the press, therefore, un- "der the common law, cannot in this "point of view, be the standard of its "freedom in the United States."

Let the reader bear in mind, that the man who but about three years ago, lent his aid in propagating the above sentiments, is the same Attorney-General, who now carries on a prosecution against the junior editor of this paper, under the most rigorous construction of the common law. Yes! strange as it may seem, the same man, who so lately declared, in effect, that the common law idea of the liberty of the press, could never be admitted in America; who declared also, that the press ought to be exempt, not only from previous restraints, but from the *subsequent penalty of laws*, has now the unblushing impudence to attempt (under the authority of the common law of England which declares truth to be a libel) to subject a printer to PENALTIES!! Here is much room for reflection: But, we proceed with the report:—

"Without scrutinising minutely into "all the provisions of the Sedition act, it

*By BARBER and SOUTHWICK.

" will be ſufficient to cite ſo much of ſec-
" tion 2, as follows: *And be it further*
" *enacted, that if any perſon ſhall write*
" *print, utter or publiſh, or ſhall cauſe*
" *or procure to be written, printed, utter-*
" *ed or publiſhed, or ſhall knowingly and*
" *willingly aſſiſt or aid in writing, print-*
" *ing, uttering or publiſhing, any falſe,*
" *ſcandalous and malicious writing or*
" *writings againſt the government of the*
" *United States, or either houſe of the*
" *Congreſs of the United States, or the*
" *Preſident of the United States, with an*
" *intent to defame the ſaid government,*
" *or either houſe of the ſaid Congreſs, or*
" *the Preſident, or to bring them, or ei-*
" *ther of them, into contempt or diſre-*
" *repute; or to excite againſt them, or*
" *either, or any of them, the hatred of*
" *the good people of the United States,*
" *&c. Then ſuch perſon, being thereof*
" *convicted before any court of the Unit-*
" *ed States, having juriſdiction thereof,*
" *ſhall be puniſhed by a fine not exceed-*
" *ing two thouſand dollars, and by im-*
" *priſonment not exceeding two years.*"

" On this part of the act the following
" obſervations preſent themſelves.

" 1. The conſtitution ſuppoſes that the
" Preſident, the Congreſs, and each of its
" houſes, may not diſcharge their truſts,
" either from defect of judgment, or oth-
" er cauſes. Hence they are all made
" *reſponſible* to their conſtituents, at the
" returning periods of election; and the
" Preſident, who is ſingly entruſted with
" very great powers, is, as a further guard,
" ſubjected to an intermediate impeach-
" ment.

" 2. Should it happen, as the Conſtitu-
" tion ſuppoſes it may happen, that either
" of theſe branches of the government,
" may not have duly diſcharged its truſt;
" it is natural and proper that according
" to the cauſe and degree of their faults,
" they ſhould be brought into contempt
" or diſrepute, and incur the hatred of
" the people.

" 3. Whether it has, in any caſe, hap-
" pened that the proceedings of either, or
" all of thoſe branches, evinced ſuch a
" violation of duty as to juſtify a con-
" tempt, a diſrepute or hatred among the
" people, can only be determined by a
" free examination thereof, and a free
" communication among the people there-
" on.

" 4. Whenever it may have actually
" happened, that proceedings of this ſort
" are chargeable on all or either of the
" branches of the government, it is the
" duty as well as right of intelligent and
" faithful citizens, to diſcuſs and pro-
" mulge them freely, as well to control
" them by the cenſorſhip of the public o-
" pinion, as to promote a remedy accord-
" ing to the rules of the conſtitution.—
" And it cannot be avoided, that thoſe
" who are to apply the remedy muſt feel,
" in ſome degree, a contempt or hatred
" againſt the tranſgreſſing party."

" It is obvious, that the intent to de-
" fame or bring into contempt or diſre-
" pute, or hatred, which is made a con-
" dition of the offence created by the act;
" cannot prevent its pernicious influence
" on the freedom of the preſs. For omit-
" ting the enquiry, how far the malice of
" the intent is an inference of the law
" from the mere publication, it is mani-
" feſtly impoſſible to puniſh the intent to
" bring thoſe who adminiſter the govern-
" ment into diſrepute or contempt, with-
" out ſtriking at the right of freely diſcuſ-
" ſing public characters and meaſures:
" becauſe thoſe who engage in ſuch diſ-
" cuſſions, muſt expect and *intend* to ex-
" cite theſe unfavorable ſentiments, ſo far
" as they may be thought to be deſerved.
" To prohibit therefore the intent to ex-
" cite thoſe unfavourable ſentiments a-
" gainſt thoſe who adminiſter the govern-
" ment, is equivalent to a prohibition of
" the actual excitement of them, is e-
" quivalent to a prohibition of diſcuſſions
" having that tendency and effect; which,
" again, is equivalent to a protection of
" thoſe who adminiſter the government,
" if they ſhould at any time deſerve the
" contempt or hatred of the people, a-
" gainſt being expoſed to it, by free ani-
" madverſions on their characters and con-
" duct. Nor can there be a doubt, if
" thoſe in public truſt be ſhielded by pen-
" al laws from ſuch ſtrictures of the preſs
" as may expoſe them to contempt and
" diſrepute, or hatred, where they may
" deſerve it, that in exact proportion as
" they may deſerve to be expoſed, will be
" the certainty and criminality of the in-
" tent to expoſe them, and the vigilance
" of proſecuting and puniſhing it; NOR
" A DOUBT, THAT A GOVERN-
" MENT THUS INTRENCHED IN
" PENAL STATUTES, AGAINST
" THE JUST AND NATURAL EF-
" FECTS OF A CULPABLE AD-
" MINISTRATION, WILL EASILY
" EVADE THE RESPONSIBILITY
" WHICH IS ESSENTIAL TO A
" FAITHFUL DISCHARGE OF ITS
" DUTY."

These were the ſober, ſerious, deliberate ſentiments of the auguſt aſſembly of the ſtate of Virginia, at a time when the government of the United States was adminiſtered by federaliſts. That the Virginia democrats ſhould, at ſuch a time, under ſuch circumſtances, entertain ſuch ſentiments, is not ſurprizing. Their political opponents held the reins of power. The President was not a native of the " ancient dominion." A majority of both houſes of Congreſs were friends of the President and his meaſures. Theſe watchful guardianns of the people's rights, therefore, were unaccountably tormented by jealouſy. They ſuppoſed, (as well as the conſtitution) that the President and Congreſs, " from defect of judgment, or other cauſes," might not " diſcharge their truſts." They thought it extremely " natural and proper," therefore, that the ſaid President and Congreſs " ſhould be brought into contempt and diſrepute, and incur the hatred of the people." They believed that this contempt, and diſrepute, and hatred, could only be excited by " free examination," and " free communication" among the people. They conſidered it as the duty of every " intelligent and faithful citizen," to " promulge freely" ſuch TRUTHS or FALSHOODS as would tend to create ſuch " contempt or hatred againſt the tranſgreſſing party."—And they, with one accord, declared, that the Sedition Law, which puniſhed the publiſher of *falſhoods* concerning the government, was an alarming infraction of their *rights*—(their *right* of telling *falſhoods!*) It is not ſurprizing, that the men who held ſuch an unfavorable opinion of the Sedition Law, ſhould alſo diſapprove of the common law. Neither is it ſurprizing that our Attorney-General ſhould concur with them in all their ſentiments, and adopt them as his own. But it is really aſtoniſhing that he ſhould, after the adoption and promulgation of ſuch ſentiments, become the pretended avenger of the Wrongs of the Preſs—that he ſhould attempt to erect a barrier around the government, to prevent the ſcrutiny of inveſtigation—that he ſhould endeavor to ſhield our rulers from the " free examination" of the people, by the proviſion of a tyrannical Common Law; and that he ſhould *now* exclaim againſt that licentiouſneſs, which he once declared to be " natural and proper."—But, let it be conſidered, that the power which, three years ſince, was in the hands of the federaliſts, is now in poſſeſſion of the democrats.

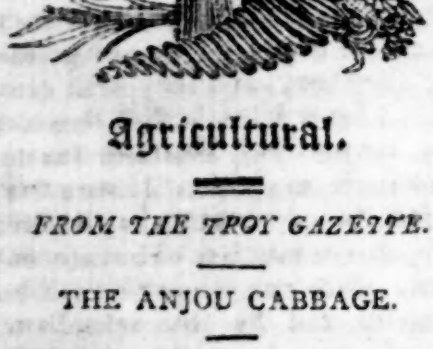
☞ We made a trifling omiſſion in copying the Sedition Law into our laſt. But the ſame paſſage is correctly inſerted in this number.

THE FRENCH REVOLUTIONARY MILL.

A facetious writer, ſome years ago, in a Dedham paper, Maſſachuſetts, remarked;—" The French ſeem reſolved to make Spain paſs through the revolutionary griſt-mill. There will be much bran!—If Portugal ſhould be ground, the millers expect to take great toll. The mill for America is expected to be a ſaw mill. If the French ſhould get the Floridas and Louiſiana, they will take Georgia and Tenneſſee for what we call ſlabs, or the outſide of the log. But New-England, *the heart of the oak*, (he obſerved) is too tough to be ſplit."

The French ſaw mill, that has been conſtructed for the United States, is now in motion; and unleſs the moſt vigourous efforts be uſed to obſtruct its wheels, it will ſpeedily cut aſunder the union. It will quickly cut off the outſide, Georgia and the Weſtern territory, as ſlabs, and will then gradually proceed toward the heart of the timber. Indeed even in New-England, there is ſome timber ſo *punky* that the French *ſaw* might eaſily paſs through it, particularly the little ſtate of Rhode-Iſland; but it is ſo puny and lies ſo remote withal from the ſaw mill, that an attempt to ſunder it from the ſolid oak, with which it is ſurrounded, would, like the Indian's gun, coſt more than it would come to.

A circumſtance that promiſes ſucceſs to this French ſaw mill, is, that Bonaparte, the proprietor, will probably diſpoſe of ſome ſhares in his patent to a number of enterpriſing characters in this country.



Agricultural.

FROM THE TROY GAZETTE.

THE ANJOU CABBAGE.

THE culture of a very useful vegetable, till very lately unknown in England, has been recently brought to perfection, near Bristol. It appears richly to merit the attention of our farmers. This is the Anjou Cabbage, perhaps the most useful and profitable of all plants of that species, which can be raised. The seed was supplied by a French emigrant. It is so tender that it is dressed in three or four minutes boiling. It affords excellent food for cattle, and they feed upon it very greedily; it occasions cows to yield abundance of milk, and at the same time keeps them in flesh. In bulk, rapidity of growth, and for the little culture it requires, it exceeds all other of the *Brassica* species.—The stalk acquires the thickness of a man's leg, and is used when dry for fuel.

Monitorial Department.

To aid the cause of virtue and religion.

FOR THE BALANCE.

ADVICE TO MARRIED LADIES.

HAVING seen of late much advice and admonition to young ladies and gentlemen, in news-papers, and conscious as I am, that we do not merit more censure than those that are married, take the liberty to advise and admonish you a little (though in a friendly manner.) How often do I hear you complain of the inconstancy of your husbands; the indifferent affection they appear to have for you; that they spend their evenings abroad at the tavern, or billiard table, or some other place equally dishonourable. Are you certain, in your own heart, that you have given your husband no reason for all this? Is your behaviour equally tender with that of your first and second years union? Does not your husband discover ill-nature in your countenance and churlishness in your conduct, when he comes home? Do you now discover the same pleasure in being with your husband as at first? Sorry am I to say, too many of our sex give but too just cause for complaint. The married state is what I am an utter stranger to; and such an unsavory proof of it I can never hope to find. But as a day not far remote from this, may usher me into matrimonial bonds, I will, as far as in my power, point out a path, which if you follow, a man must be wholly lost, not at last to turn to the right road. Beware of discovering the least symptoms of that green-eyed monster, jealousy; be always ready, with a smile, to meet your husband when he comes home, let it be ever so late at night; appear joyful at his return; never complain of his absence, but rejoice at his presence; convince him by ten thousand assiduities that he is all the world to you. Too many ladies are apt to form a different method; and can it be possible that a man can come to his wife with pleasure, to frowns and reproaches? No! Put the case to ourselves; we should not, had we those advantages men have. That is a point to be considered; for if home is displeasing, the bottle is always ready to receive them. Should your husband discover an inclination to take you out with him, by all means go; it will show your desire to please him; it will regain his wandering heart, which has only roved; if he has behaved well for a number of years, there is no doubt of his having a sincere attachment for you; I am almost assured, if you follow my advice, you will make your company and home so pleasant, that if he has taken any improper steps, or even formed any improper connections, he will fling it from him as a cloak which is troublesome in hot weather.

Yours, &c.

ELIZA.

Miscellany.

FOR THE BALANCE.

TO THE CITIZENS OF HUDSON.

THE amount of the losses, which have been sustained by fire, in the seaports and other commercial towns in this country, during the last fifty years, has been enormous. In the year 1760, the damage that Boston suffered by fire was estimated at four hundred and forty four thousand dollars. That town has suffered devastations of the same kind, and in some instances terribly, in the years '61, '64, '75, '87, '94, and since.

In the year 1776, a thousand houses were consumed by fire in New-York. Three hundred houses were burnt there in the year 1778. A few years before the middle of the last century, Charleston, in South Carolina, was half laid in ashes. In the year 1778, it had two hundred and fifty dwelling houses, besides out houses burnt; to the supposed amount of four hundred and forty four thousand dollars. It was only a few years ago, that the greater part of Savannah, in Georgia, was burnt to ashes. The successive terrible fires in Albany are fresh in people's memories. The loss sustained by the late conflagration at Portsmouth, New-Hampshire, whereby a large proportion of that flourishing town was laid in ruins, has been estimated to be five hundred thousand dollars. Passing over a multitude of other instances less extensive and calamitious, these which have been mentioned are enough, one would think, to awaken the public attention to this subject.

During the short time of one generation, millions-worth of property has been destroyed in this country; the most distressing scenes have been witnessed and felt; and thousands of families have been reduced from ease and affluence, and thrown into poverty;—through the absurd practice of *inviting* conflagrations, by building towns with wood. It is to be considered that, in addition to the ordinary chances of fire, which, in a wood-built town, are sufficiently alarming and fearful, there are (God only knows how many) incendiaries dispersed over our country; and it is impossible always to guard the *tinder* of wood-houses from the torches of those infernal monsters.

B.

A MINIATURE OF WASHINGTON, FROM THE PEN OF DR. LINN.

"THOUGH naturally reserved, yet he was not haughty. Though those who approached him felt his superiority, yet he did not assume. He blended dignity and condescention. The greatest and the smallest objects received from him due attention. He never betrayed any symptoms of vain glory. When he was once asked, whether he had ever said, as was reported, "that he knew no music so sweet as the whistling of bullets," he answered, "If I said so, it was when I was young." Learning to estimate justly all human glory, and matured by experience; accustomed to lofty conceptions, and moving always in the important spheres of life; impressed with a sense that he derived all from God, and that all should be devoted to his service; his deportment was noble, equally removed from the supercilious and the

vain. Some men have been great at one time, and despicable at another; some men have performed a single great action, and never rose to the like again; but to him great actions seemed common. Some men had appeared great at the head of armies, or when surrounded by the trappings of power; and little when stripped of these, and alone; some men have withstood the storms of adversity, and been melted by the sunshine of prosperity; some men have possessed splendid public talents, and disgraced these by sordid private vices; but it is difficult to determine when and where Washington shone the brightest. It can only be said that he was *uniformly* great."

Columbian Eloquence.

SPEECH OF MR. GOUVERNEUR MORRIS,

In the Senate of the United States, Feb. 3, on the report of the committee to whom was referred the Memorial of the Judges of the Circuit Courts of the United States.

Mr. Morris. I rise, Mr. President, as chairman of the committee whose report you have just had the goodness to read, for the purpose of explaining their reasons. If this were a common or an ordinary occasion, if no heats had been excited, if there were no unpleasant, no tormenting recollections, a measure so plain, so easy, so simple, would require neither argument nor persuasion. It would be adopted for its own interior evidence, and from the general sense of propriety. Unhappily, Sir, this is not the case. Serious differences of opinion have existed, and still exist on the subject with which it is connected. From these have arisen disputes, divisions, bickerings. There is not, I fear, in the minds of men, that calm impartiality which is needful to fair investigation. There remains much of prejudice, irritability.

Before I proceed to an explanation, therefore, I find myself reduced to the painful necessity of praying gentlemen to perform a great duty to this Senate, to themselves. I must entreat them to hear with patience, coolly to consider, and then decide according to the dictates of reason and justice.

Your committee have pursued the course which appeared to be proper, not only in itself but according to the existent circumstances.—Gentlemen will easily see that they might have made an elaborate report, containing a long detail of reasons to establish a favourite conclusion. And a slight knowledge of the forms of business will shew, that they might have placed that report at length on your journals. But would this have been right?—Would it have tended to conciliate?—Would it have been a proper return for the unanimity with which your committee was chosen?—Surely it would not: And is it not the duty of every good citizen to heal as far as possible, the wounds of society?—To calm those irritations which disturb its repose? To remove all things which may alarm, torment, or exasperate?

We have heard, from those who are more in the confidence of our cabinet than we are, for we have no such pretensions, that there is reason to believe that this country is on the eve of war. I hope not. I hope we shall not be visited by so great a calamity. But if this be our doom, let us prepare to meet it like men, with boldness, with unanimity. Let us banish, let us destroy every circumstance that can excite or keep alive a spirit of party. Let the proudest foe be informed that he will find us firm. Let us march hand in hand, like a band of brothers, in the plain road of duty, and whether it lead to victory or death we know it is the path to glory.

Mr. President, your committee have no intention, no wish to revive a discussion of points already settled. While the act of last session was in agitation we opposed it steadily, pertinaciously. But that act has become a law, and to the authority of the law we bow submissive. While in suspense, we thought it our duty, as senators, to oppose. But since it has been adopted, according to the forms of the constitution, we know that as citizens we are bound to obey. With these deep impressions, then, of what is due to the supreme law of our land, I shall proceed to the report of your committee, and endeavour to explain its several parts.

Gentlemen will perceive, that the question which the memorialists have submitted to our investigaton is, whether the law of last session has deprived them of their office of judge—Your committee consider this question as not being cognizable by the senate. It is not for the senate, nor the representatives, nor both combined to interpret their own acts. We are a part of the legislature. A part of the executive power is also delegated to us. If the judiciary be added it will constitute a tyranny. It is, indeed, the very definition of tyranny which has been given by those best acquainted with the subject. This senate can have no wish to arrogate power. It is too just, too wise. If a sense of propriety did not prevent, prudence alone would forbid the attempt. This body is too feeble for the exercise of so much authority. Its form, its constitution, the mode and manner of its creation and existence, the strength and structure of its members, render it incapable of sustaining a greater weight of power.

The other house, indeed, immediate representatives of the people, may do much. Borne on the heady torrent of popular opinion, they may, and they will usurp all power. This will be the first step towards military despotism. But the senate can have no such madness. If we can preserve what the constitution has entrusted to our care, it is as much as can reasonably be expected. Nor can we preserve it but by our integrity, and by that respect which justice inspires; for "*Our cloud of dignity is held from falling by the weakest wind.*" The second proposition of your committee is indeed a corollary from the first. They consider this question as cognizable by the judiciary alone. It is gone from us forever; and is, from the nature of things, before the judiciary, in common with all other laws. To agitate it again can produce no benefit, can tend to no useful object, can accomplish no desirable end. Our opinion, whether to affirm or to deny, can be of no avail. The other house, indeed, have given an opinion favourable to the claim. This may appear a strange assertion to gent'emen who have amused themselves with reading in newspapers what are said to be the speeches of the members; But it is not from such sources that we are to derive the opinions of a legislative body, nor do they rest on such frail authority. By recurring to the journals of the house, I find, that on the day of they took up a resolution reported by the committee of the whole, purporting that the memorialists, "*late judges of the circuit courts,*" have leave to withdraw their petition: And on this it was moved to strike out the words "*late judges,*" &c. which motion was carried by a small majority. Now then, I say, that if not directly, yet by clear implication, by strong and necessary inference, the house have declared, that these gentlemen are still judges. That they *were* judges is a fact unquestionable and of public notoriety. To say, then, that they are not late judges is to say that they still hold their office, that they are *now* judges.

Such, then, is the opinion of the house. And they, in the plenitude of their power, may venture to express that opinion. But we may not. It does not become us to prejudge. It is neither wise to commit our authority, nor just to influence the tribunals of our country.

Your committee, Sir, have ventured to express their belief, that the question should be speedily settled. It learnt in early youth, from the volumes of professional science, that it is expedient for the commonwealth, that a speedy end should be put to litigation. And if it be important that litigation should

ceaſe between man and man, how much more important that a litigated point of public right, which intereſts and agitates the whole community, ſhould be laid at reſt? And if this be important in the general courſe of things, is it not, under preſent circumſtances, indiſpenſable? And how is it to be effected?—By an exertion of legiſlative might?—By force?—Remember—Force will excite reſiſtance. Such is the nature of the human heart. Free citizens revolt with diſdain at the exerciſe of force. But judgment commands their prompt, their willing obedience. When the law is known, when it is declared by the proper tribunals, all will bow to its authority. You may then expect a full, and quiet, and general ſubmiſſion. But while it is litigated and uncertain what the law is, differences will exiſt, and diſcord will prevail.

Is it wiſe to embark in great national enterprizes, on the wild ocean of war, with a divided people? Can you hope for ſucceſs while diſcontent ſits brooding in the heart of your country? Theſe judges, indeed, are not numerous; but they do not ſtand alone. They have relatives, friends, adherents from blood, affection, principle. Why will you wound a claſs of citizens numerous and reſpectable? Can you, while they are aggrieved, injured, inſulted, expect their cordial aid, ſupport and aſſiſtance? But to this it may be ſaid, that theſe judges are but a feeble band; we can cruſh them and their oppoſition. We have the power. Yes, we have gigantic power; but ſhall we therefore uſe it with the ferocious cruelty of a giant? We *can* cruſh them. Yes, with the vaſt weight of legiſlative force we can *cruſh* them. But is it honourable, is it magnanimous, does it become the brave? Will it give the people a confidence in their rulers? Will it give them a confidence in themſelves, who have choſen ſuch rulers? If by an exerciſe of our power we could even prevent an inveſtigation of our conduct, what would be the impreſſion on the public mind? Suſpicion and diſcontent, deep and dangerous.

It is under theſe impreſſions, ſir, that your committee have preſumed to offer the reſolution on your table; and as ſome of the technical terms may not be familiar to every gentleman, it may be proper to ſtate the kind of proceeding which is recommended.

The attorney-general, or, as he is denominated in French idiom, the public accuſer, will inſtitute before the proper tribunal, an inquiry by what authority theſe men claim to hold and exerciſe the office of judge. It will then be incumbent upon them, either to diſclaim the office, and then there is an end of the queſtion: or elſe (claiming it) to eſtabliſh their right. And to do this they muſt prove two things: Firſt, that the office exiſts: and ſecondly, that of right it belongs to them. Failing of either, their claim is gone.

Now, ſir, it may be well to conſider the deciſions which may be made and their probable effect.

I take it for granted, that theſe gentlemen, who have aſked a judicial deciſion, will not diſclaim, and that whatever judgment may be given in the firſt inſtance, the cauſe will be brought up to the ſupreme court. If the judgment, in the laſt reſort ſhould be (as it probably would be) againſt the claim, all complaint will be quieted, and all oppoſition will ceaſe. Some then, indeed might triumph. For my own part, I ſhould find in it great conſolation—the conſolation of knowing that, however wrong may have been my own opinions, the ſupreme legiſlature of my country have done right. The pride of opinion might, indeed, be wounded; but God forbid, that from motives of pride, or from any other motive, I ſhould hear, without deep concern, that the legiſlature of my country have violated that ſacred charter from which they derive their authority.

But ſuppoſe an opinion different, contrarient, or the very reverſe (for that alſo is poſſible)—Will the judges rudely declare that you have violated the conſtitution, unmindful of your duty, and regardleſs of your oath? No—With that decency which becomes the judicial character, that decency which upholds national dignity and impreſſes obedience on the public will, that decency, the handmaid of the graces, which more adorns a magiſtrate than royal robes, with that decency which ſo peculiarly befits their ſtate and condition, they will declare what the legiſlature meant. They will never preſume to believe, much leſs to declare, that you meant to violate the conſtitution. There will be no dangerous and hateful claſhing of public authorities. They will never queſtion the exerciſe of that high diſcretion with which you are inveſted.—They will not deny your full ſupremacy. They will not examine into your motives, nor aſſign improper views. They will reſpect you ſo long as they preſerve a due reſpect for themſelves. They will declare, that in aſſigning duties to one officer, and taking them from another, you have to conſult only your own convictions of what the intereſt or convenience of the people may require. They will modeſtly conclude, that you did not mean to aboliſh the offices which the conſtitution had forbidden you to aboliſh: and therefore, finding that it was not your intention to aboliſh, they will declare that the offices ſtill exiſt.

Such, ſir, would be the language of your ſupreme judiciary, from the high ſenſe they entertain of their duty.—And, if it were decent to ſuggeſt in this ſenate, that they were loſt to a ſenſe of duty, can it be believed, that a few feeble judges will dare oppoſe themſelves to the power of the legiſlature!

Having thus ſtated, in as few words as I could, the conſequences of adopting the propoſed reſolution, I will now take the liberty to inquire the probable reſult of rejecting it.

I pray gentlemen, moſt ſincerely, to conſider the neceſſary conſequence. Will it not be ſaid, that we are afraid to meet this feeble band upon the ground of free inquiry?—That we are afraid to contend with the weapons of reaſon and argument?—Will you not be ſtrongly queſtioned? As thus—Are you confident that the judges are wrong—that their claim is unfounded?—Hear them—refute them.—Are you convinced, or do you only fear they are right?—reject their requeſt, and with the tyrant aſſign as a reaſon your ſovereign will. Such muſt be the concluſion. From this dilemma it is not poſſible for you to eſcape. If you are right you will court inquiry, and ſhun it if you are wrong.

But what is ſtill worſe, you cannot ſhun it. Theſe Memorialiſts can be heard, whether you will or no.—Spite of your reluctance they can bring on an inveſtigation. You may hide yourſelf beneath the heaps of your privileges and powers; but you will be traced to your lurking place, and the ſtrong arm of juſtice will drag you forth to the day. Yes, thoſe feeble judges can bring on the inquiry, in the very face of your power—will or not will—conſent or not conſent—ſubmit or not ſubmit—the inveſtigation which they aſk can take place. Is it not better to meet them freely? to come boldly forward like men?

Sir, I will detain you but a few minutes longer.

It appears to me eſſential to the dignity of the Senate, that you adopt this reſolution. It is more noble to meet than to avoid legal inveſtigation; and it is not a novel practice. There was a time when the American legiſlature ſubmitted their acts to judicial deciſion. At that time WASHINGTON preſided—Will it be ſaid the adminiſtration was then too humble? He, *indeed*, was modeſt and unaſſuming; but he had an inborn dignity of ſoul which taught him, intuitively, to avoid vile ſhame and offenſive pride. He, alas! is gone—Yes, he is gone——and, Oh Heaven! viperous ſlander purſues him to the ſilent tomb, and preys upon his aſhes.——Pardon me,——The name of Waſhington has excited recollections which fill my breast with anguiſh——Well,——let him be forgotten. But let us not forget what is due to ourſelves, to our country, to poſterity: that poſterity to whoſe judgment we commit our fame, the jewel moſt dear to honourable minds.

[As a foil, to set off the brilliancy of Mr. Morris's eloquence, we subjoin the Speech of Mr. Cocke, on the same question. They were both taken by one of the editors of the Gazette of the United States, than whom no reporter is more correct.
Edit. Bal.]

Mr. Cocke. I riſe, Mr. Preſident, to follow the gentleman from New-York and not to bring forward any argument of my own upon this ſubject that is now before you. I ſhall endeavour to follow him ſtep by ſtep, and anſwer all the obſervations that he has made. I ſhall not attempt to imitate his eloquence, and could not do it if I ſhould try. He has talked about that great man, general Waſhington, and ſaid a great many fine things about him which I cannot repeat. I hope I reſpect that man as much as the gentleman from New-York, but I ſhall endeavour to lay aſide the feelings that I might otherwiſe have and keep to the point before the houſe, and leave him in his grave without diſturbing of him. It has nothing to do with the queſtion under conſideration now.

The gentleman has wandered over a great many ſubjects, and he tells us in one breath if we do not adopt this reſolution we ſhall be ſkulking in ſome places, lurking holds I believe he ſaid; and in another breath that we ſhall be dragged before the almighty judges of the nation.

Sir, this honourable ſenate is an integral part of the executive, of which the preſident is the head. How then can an inferior and ſubordinate part direct the conduct of the ſuperior part? It is clear therefore that we have no right as a part of the executive, to order or requeſt the preſident to do this. Have we the right then as a part of the legiſlature? Can the legiſlature aſſume upon itſelf the right of directing the executive? What is it that is intended by this reſolution? It is, Mr. Preſident, that the legiſlature ſhall interfere with the executive, and direct the preſident to interfere with the judiciary, for the purpoſe of getting pay for theſe omnipotent judges.

Sir, theſe judges muſt depend on the legiſlative will for their continuance in office, becauſe the legiſlature can make laws and repeal them when they pleaſe, and when a law is repealed and there is nothing for the judges to do and no office for them to hold they cannot exerciſe power or receive pay, and this is according to the conſtitution. How then can this ſenate, by adopting the reſolution aid in procuring pay for theſe judges, when they have nothing to do?—Judges they are called—they are not judges—I'ſpoſe they have been judges.

The gentleman tells us we are going to be engaged in a war—bloody I ſuppoſe—Yes, no doubt very bloody. And before we get into this dreadful ſituation he would do away all oppoſition and party and unite us like a band of brothers, as he ſo eloquently deſcribed it, and all this he would do by one great and manly exertion, to pay theſe omnipotent judges and thus prevent them from dragging us forth to ſhame and puniſhment.

Sir, my mind has no *accordancy* with ſuch opinions. We have a good right to ſay whether we want the ſervices of theſe judges or not, and if we do not, we dont need to pay them. I remember, Sir, laſt year the gentleman told us a likeneſs of a boat, and ſaid, though we would not throw the man out of the boat, we would take away the boat from under him, and ſo he would be drowned. Now, Sir, ſuppoſe I hire a ſeaman to work a boat for me and I tell him that I will give him ſo much during good behaviour, and after a while the boat becomes rotten and uſeleſs to me—he knows that I hired him to work that boat and for nothing elſe,—can he come forward and ſay, you ſhall pay me for working that boat where there is none to work?—So theſe judges, we found that we had nothing more for them to do,—the law was uſeleſs to us, and we repealed it; and now ſhall theſe judges come and demand their pay?

We are alſo alarmed with a *picturation* that the other houſe are going to aſſume all the power, unleſs we let the judges come in and keep them back. Sir, I am not afraid of the other houſe aſſuming the power. Does the gentleman recollect that they are the immediate repreſentatives of the people, and that the people will judge whether they conduct well or not. The people dont want theſe judges as *guardians* to protect them from the other houſe nor from this houſe, nor any body elſe, unleſs, as the gentleman ſaid laſt year, from their worſt enemies themſelves. I believe that the people do not ſtand in need of *guardians*—they can take care of themſelves and we need not hire theſe judges to take care of them.

One ſentiment of the gentleman I highly accord with; and that is what the gentleman ſays that force tends to oppoſition. I believe this is true. The force exerciſed or attempted to be exerciſed by Richard Baſſet has highly excited my oppoſition to this reſolution. They have attempted to compaſs by *force or fraud*, I think it is force and fraud both together, the payment of their ſalaries, and the exerciſe of powers which have been taken from them and given to others.

Mr. Preſident, I ſhall now make only a ſmall remark on the reſolution itſelf, and ſit down.

The committee ſay in their report that the ſenate cannot decide upon the petition, but the judges muſt decide it. For this purpoſe we muſt go to the common law. Sir, we have heard a great deal about common law, and about *informations*. I wiſh to know where we are to ſtop if we begin to authoriſe our courts to proceed by information. Are there not other kinds of information known to this common law, beſides information in the nature of a *quo warranto*? If we adopt one from the common law may not the courts aſſume more. Has the gentleman never heard of perſons being ſeized and put to death upon information? I wiſh to know where we are to ſtop; and whether we are to follow this common law till it leads us to thoſe ermined and royal robes which the gentleman has ſo finely deſcribed to us. Sir, I believe that we have power without common law or informations to decide upon this petition as well as upon other petitions that are brought before us. The very petitioning of us—what does that import? Does it not import that we have the power and the right of deciding upon the petition? If the judges did not think that we had the power and the right what did they petition us for? I conclude then that we have the power and the right to grant or deny their requeſt, and I am therefore free to ſay that it is inexpedient to pay them for rendering no ſervices.

Be it our weekly task,
To note the paſſing tidings of the times.

Hudson, *March* 8, 1803.

On Thurſday, the 3d inſt. the laſt ſeſſion of the ſeventh Congreſs cloſed.

Thomas Thompſon, Eſq. a federaliſt, has been removed from the Poſt-Office at Saliſbury, N. H. and Moſes Eaſtman, Eſq. a democrat, appointed in his place.

At Philadelphia, on the 15th inſt. after a tedious and painful ſickness, very much lamented by his friends and acquaintance, Mr. LEWIS M. THURSTON, of the houſe of Proud & Thurſton, merchants at Baltimore, and ſon of Mr John Thurſton, merchant, of New-York, aged 23 years. His funeral was reſpectably attended on the afternoon of the 17th inſt. from the houſe of Mr. John Reynell Coats, and depoſited in the Friends' Burial Ground of that city.

The Wreath.

FROM THE PORT FOLIO.

TRANSLATED FROM THE FRENCH.

LIFE's tedious journey—though the road
With cypress dark be overcast,
Yet still with passengers 'tis strew'd ;
Having four inns for food and rest.

An ample stage-coach figures Fate ;
Mankind, the passengers within ;
Time is the coachman ; to the gate
To drive them, of their farthest inn.

On this long journey, we suppose,
Man enters when he is but young,
And breakfasts at the inn with those,
With whom he yet has gone along.

About mid-day him Venus spies,
And begs that he will with her dine,
His hostess fair won't let him rise,
Till late he finds his loss of time.

Repentant for what did befal,
Ere yet the day be three-fourths spent,
He hies to Learning's famous hall,
Th' abode, he hopes, of mild Content.

Unnumber'd votaries there does view,
Who at each other's merit grieve,
Contending each with serious brow,
For two or three of Laurel's leaves.

Touch'd with commiseration just,
At the pursuits of such a groupe,
He mounts ; and ere 'tis night he posts
To Friendship's cottage, there to sup.

But ere he has at this repast
Well found a solace to his heart,
The stern postillion's voice, aghast,
Him once more urgest to depart.

It must be done ; his soul succumbs
At the remembrance of his woes ;
Arriv'd :—he finds his goal the tomb,
Wherein at last he finds repose.

SIMILIES

FROM CLIFFTON's POEMS :

A YOUTH WHO DIED, TWO OR THREE YEARS AGO, AT PHILADELPHIA.

"So the poor girl whose bold seducer flies
With steps too rude to seize the virgin prize,
Frowns on the wretch who dar'd invade her charms ;
And all her injured feelings rush to arms,
But soon return'd, he drops an artful tear,
And pours his plaintive sorrows in her ear,
Till treacherous love admits the wily cheat,
And stamps her ruin and her shame compleat.
So Satan once, with "diplomatic skill,"
Rush'd through the tangles of the sacred hill,
Beguil'd the truth of *Adam's* honest mind
And nail'd the yoke of mischief on mankind."

Diversity.

EXTRACTS

FROM A MISER'S PRAYER, IN THE NEW-YORK MAGAZINE.

"GIVE humility to the poor and beggarly, and make them contented under the allotments of thy providence ; that so they may not pester thy thrifty and faithful servants with their outcries for charity.

"Hear, we beseech thee, O Lord, hear the prayers of the widow, and the fatherless, and the halt, and the blind, and the old, and the bed-ridden, and relieve their many wants from thy own stores, and thy own bounty, that so they may no longer depend for bread upon the scanty gifts of selfish mortals.

"Save us, we beseech thee, from perishing by fire. Take this great city especially under thy divine protection ; and let a particular large share of thy regard be bestowed upon the buildings in third street. Sundry of them, thou knowest, belong to thy servant, and but one among them all is brick.

"Have an eye of especial regard to Richard Harris, who is now sick almost unto death. Raise him up once more to be an help and a stay to his wife and children, and give him wherewithal to pay thy servant what he oweth him.

"Be not wroth with the good people of New-Jersey, and especially with the county of Morris, seeing thy serveant has a mortgage on certain lands in that county.

"If the iniquities of fallen men claim their punishment at thy just hands, and thy anger waxeth hot against my sinful neighbour, Francis Settlesides, do not smite him in his person, his wife, or his children, but blow with thy wind and cause a ship of his, that he lately sent to Port Republican with precious commodities, to sink in the midst of the sea ; that so it may never arrive, nor the market be overstocked. But hearken to thy servant's prayer, and let the same wind only hasten the passage of the good ship Flying Fish, whereof is master for the present voyage, Caleb Strong, which said ship belongeth to thy servant, in partnership with Mr. Michael Holliday, of Boston. Amen."

AT a public entertainment in Massachusetts, soon after the death of Washington, a young clergyman at the table was asked for a toast ; who gave the following. "The memory of George Washinton"—"Our Father, Our Father ! The chariots of Israel, and the horsemen thereof."

[The following anecdote is related in a foreign paper. If correct, it exhibits an interesting trait in the character of the most extraordinary man of the age.]

WHEN M. De Marcouff, in behalf of the Emperor of Russia, was supplicating Bonaparte to commisserate the situation of the King of Sardinia ; which he said must deeply affect his *heart :* "Inform your sovereign," says Bonaparte, "that it is not by the *heart*, but by the *head*, that the rulers of states should be guided in their mode of government."

A GENTLEMAN asked a punster to pronounce a witticism extempore. The wit requested him to name a *subject*. The gentleman said, the *King*—The *King*, he replied, is no *subject*.

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